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11 School District
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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**
15

16 E.M., a minor, by and through his parents
E.M. and E.M.,

17 Plaintiff,

18 vs.

19 PAJARO VALLEY UNIFIED SCHOOL
20 DISTRICT, OFFICE OF ADMINISTRATIVE
HEARINGS, and CALIFORNIA
21 DEPARTMENT OF EDUCATION,

22 Defendants.
23

CASE NO. C 06-04694 JF

**JOINT STIPULATION TO PARTIALLY
STAY ACTION FOR COMPLETION OF
MEDIATION; [~~PROPOSED~~] ORDER**

Trial Date: None

24 Plaintiff E.M., by and through his parents E.M. and E.M., ("Plaintiff") and Defendant
25 Pajaro Valley Unified School District ("Defendant") (collectively referred to as the "Parties"),
26 hereby stipulate to the following.
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RECITALS

WHEREAS, Plaintiff filed a First Amended Complaint for Damages and Appeal from a Decision of the California Office of Administrative Hearings pursuant to the Individuals with Disabilities Education Act (20 U.S.C. § 1415 *et seq*) (“First Amended Complaint”) on December 15, 2006;

WHEREAS, Defendant filed an answer to Plaintiff's First Amended Complaint on January 4, 2007;

WHEREAS, on July 20, 2007, the Parties attended a Case Management Conference, at which this Court ordered the Parties to complete a mediation through the Court's Alternative Dispute Resolution program;

WHEREAS, on or about November 1, 2007, the Parties began to informally begin settlement discussions and shortly thereafter agreed to a moratorium on all discovery, including discovery motions, until such time as mediation could be conducted;

WHEREAS the Parties attended mediation with Court mediator Daniel Bowling (“Mediator”) on January 10, 2008;

WHEREAS the mediation failed to settle this action;

WHEREAS, the District is currently in the process of re-assessing Plaintiff to determine if he is currently eligible to receive special education and related services under the Individuals with Disabilities Education Act;

WHEREAS, the expected date for completion of the re-assessment is March 13, 2008;

WHEREAS, the Parties seek to conserve resources in litigating this matter, especially as to the costs of discovery;

Accordingly, subject to Court approval, IT IS HEREBY STIPULATED BY THE PARTIES as follows:

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STIPULATION

1. All discovery in this matter will be stayed until April 15, 2008, including but not limited to all discovery and discovery motions;

3. If the Parties deem it necessary, the Parties will make arrangements with the Mediator to reconvene the mediation on or before April 15, 2008;

4. If this matter has not reached full and final settlement by April 15, 2008, the stay will be terminated and the parties will proceed to complete discovery and prepare this matter for trial;

5. Neither party will be prejudiced by participating in the stay and the Parties may not argue that the period in which the parties participated in mediation (November 1, 2007 – April 15, 2008) supports an argument of laches, statutes of limitations, or similar defenses related to delay.

6. The Court shall set a further case management/trial setting conference to take place on June 6, 2008.

DATED: March 3, 2008

LEIGH LAW GROUP

By: _____

Mandy G. Leigh
Attorneys for Plaintiff E.M. by and through E.M.
and E.M.

DATED: March 3, 2008

FAGEN FRIEDMAN & FULFROST, LLP

By: _____

Kimberly A. Smith
Attorneys for Defendant Pajaro Valley Unified
School District

I, MANDY G. LEIGH, am the ECF User whose ID and password are being used to file this JOINT STIPULATION TO PARTIALLY STAY ACTION FOR COMPLETION OF MEDIATION; [PROPOSED] ORDER. In compliance with General Order 45, X.B., I hereby attest that KIMBERLY A. SMITH, counsel for DEFENDANT, has concurred in this filing.

1 DATED: March 3, 2008

LEIGH LAW GROUP

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3 By: /s/ Mandy G. Leigh

4 Mandy G. Leigh

5 Attorney Plaintiff
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2 **UNITED STATES DISTRICT COURT**
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5 E.M., a minor, by and through his parents
6 E.M. and E.M.,

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8 vs.

9 PAJARO VALLEY UNIFIED SCHOOL
10 DISTRICT, OFFICE OF ADMINISTRATIVE
11 HEARINGS, and CALIFORNIA
12 DEPARTMENT OF EDUCATION,

13 Defendants.

CASE NO. C 06-04694 JF

[PROPOSED] ORDER

Trial Date: None


14 PURSUANT TO STIPULATION OF THE PARTIES, IT IS HEREBY ORDERED that
15 this action shall be stayed until April 15, 2008, except for the filing of Plaintiff's motion to
16 supplement the record, the filing of any opposition and reply briefs and the Court's hearing of the
17 motion on March 28, 2008;

18 IT IS FURTHER ORDERED THAT, upon the completion of the District's re-assessment
19 of Plaintiff, the Parties will contact the Mediator to schedule a further mediation in this case if the
20 Parties deem that mediation is warranted.

21 IT IS FURTHER ORDERED THAT a further case management/trial setting conference
22 shall be scheduled for June 6, 2008.

23 IT IS SO ORDERED.

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25 DATED: 3/17/08

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27 Judge of the United States District Court
28 for the Northern District of California

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